

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed April 9, 2007, and the Advisory Action mailed July 9, 2007. At the time of the Office Action, Claims 1-43 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 101 Rejection

The Examiner rejects Claims 34 and 35 under 35 U.S.C. § 101 proposing that the claimed invention is directed to non-statutory subject matter. Applicant respectfully defers this issue until the substantive patentability of the pending claims has been resolved. Applicant suggests an Examiner Amendment could be used to cure this issue and is amenable to such a modification.

Section 112 Rejection

The Examiner rejects Claims 34 and 35 under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. Applicant respectfully defers this issue until the substantive patentability of the pending claims has been resolved. Applicant suggests an Examiner Amendment could be used to cure this issue and is amenable to such a modification.

Section 103 Rejection

The Examiner rejects Claims 1-15, 18-34, 36-41 and 43 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0219029 issued to Pickett (hereinafter “*Pickett*”) in view of U.S. Patent No. 6,714,534 issued to Gerzberg et al. (hereinafter “*Gerzberg*”). The Examiner rejects Claims 16-17, 35 and 42 under 35 U.S.C. § 103(a) as being unpatentable over *Pickett* and *Gerzberg* as applied to Claims 1-15, 18-34, 36-41, and 43 above, and further in view of U.S. Patent 4,839,640 issued to Ozer et al. (“hereinafter *Ozer*”). This rejection is respectfully traversed for the following reasons.

No reference of record addresses a packet buffering, processing and management unit sending a message indicating a power has been restored to a source of a rejected packet

which was previously sent a message indicating a power failure to said source of said rejected packet when said power failure occurred...the packet buffering, processing and management unit accepts packets based, at least in part, upon a length of time of the power failure, as is recited in Independent Claim 1.

The Examiner has relied on a third reference for this teaching, but that reliance is misplaced. At the passage cited for these limitations in that reference, there is simply nothing that is germane to such limitations. Simply stated, there is nothing in *Ozer* that would inhibit the patentability of the pending subject matter. Furthermore, because the Examiner has conceded that such limitations are not in any of reference of record, Independent Claim 1 is clearly allowable over the proposed §103 rejection. Accordingly, Applicant respectfully requests reconsideration and allowance of Independent Claim 1 and its dependents.

Independent Claims 24, 34, 36, and 37 each recite similar limitations. Therefore, Applicant respectfully requests reconsideration and allowance of Independent Claims 24, 34, 36, and 37, together with their dependents, for analogous reasons. Accordingly, all of the pending claims have been shown to be allowable, as they are patentable over the cited references. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

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PATENT APPLICATION  
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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant hereby takes an Extension of Time for submitting the Request for Continued Examination, from July 9, 2007 to August 9, 2007. The Commissioner is hereby authorized to charge the one-month extension fee of \$120.00, and the statutory fee of \$790.00 for the filing of the Request for Continued Examination to Deposit Account No. 02-0384. In addition, the Commissioner is hereby authorized to charge any deficiencies and credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Thomas J. Frame, at (214) 953-6675.

Respectfully submitted,  
BAKER BOTTs L.L.P.  
Attorneys for Applicant

  
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Customer No. **05073**